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13. Limitation of Actions (§ 60*)—When Statute Begins to Run—Fraud.—In an action by the assignee for the benefit of creditors against the directors of an insolvent bank on the ground of their misconduct and mismanagement of its affairs, where there was neither proof nor averment of fraud, nor of any act intended to conceal the existence of liability, or which in any way prevented or delayed plaintiff in bringing suit, the limitation began to run from the time the alleged wrong was committed rather than from the time that plaintiff had knowledge of the facts upon which the cause of action arose.

[Ed. Note.—For other cases, see Limitation of Actions, Cent. Dig. §§ 333-341; Dec. Dig. § 60.* 9 Va.-W. Va. Enc. Dig. 387; 14 Va.-W. Va. Enc. Dig. 661; 15 Va.-W. Va. Enc. Dig. 619.]

Appeal from Law and Chancery Court of City of Norfolk.

Suit by James H. Winston and others, as trustees, under an assignment by the 'Traders' & Truckers' Bank of the City of Norfolk, against T. B. Gordon and others, as directors, etc. Decree for defendants, and plaintiffs appeal. Reversed and remanded.

C. J. Collins, Williams, Tunstall & Thom, and Jeffries, Wolcott, Wolcott & Lankford, all of Norfolk, for appellants.

Walter H. Taylor, N. T. Green, Jas. E. Heath, O. L. Shackelford, Jas. G. Martin, Thos. H. Willcox, and Tazewell Taylor, all of Norfolk, for appellees.

PHILLIP LEVY, & CO. *v.* DAVIS.

Jan. 15, 1914.

[80 S. E. 791.]

1. Contracts (§ 138*)—Legality of Object—Relief—Enforcement of Contract in General.—The law will leave all equally guilty of an illegal or immoral transaction where it finds them, and will not lend its aid to rescind or enforce such a contract while it is executory.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 681-700; Dec. Dig. § 138.* 7 Va.-W. Va. Enc. Dig. 292; 14 Va.-W. Va. Enc. Dig. 522; 15 Va.-W. Va. Enc. Dig. 472.]

2. Contracts (§ 138*)—Legality of Object—Recovery of Consideration.—As to parties equally guilty of an illegal or immoral executed agreement, the law will not lend its aid to recover the consideration parted with thereunder.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 681-700;

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

Dec. Dig. § 138.* 7 Va.-W. Va. Enc. Dig. 292; 14 Va.-W. Va. Enc. Dig. 522; 15 Va.-W. Va. Enc. Dig. 472.]

3. Contracts (§ 138*)—Legality—Immorality—Relief.—Regardless of the contract rights of the parties or of the interest in the goods intended to be conferred by the contract, and in view of Code 1904, § 3790, making the keeping of a disorderly house a penal offense, plaintiff, who sold and delivered furniture to defendant for the specific purpose of placing it and using it in a house of prostitution, the income from which, as plaintiff knew, was defendant's only means of paying therefor, could not maintain detinue, or, in the alternative, recover the value of the property.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 681-700; Dec. Dig. § 138.* 7 Va.-W. Va. Enc. Dig. 292; 14 Va.-W. Va. Enc. Dig. 522; 15 Va.-W. Va. Enc. Dig. 472.]

4. Contracts (§ 138*)—Legality—Relief Independent of Illegality.—In such action, where the illegality of the contract appeared either in the pleadings or in the evidence, plaintiff could not recover on the ground that he could make out his case without disclosing the illegal character of the contract.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 681-700; Dec. Dig. § 138.* 7 Va.-W. Va. Enc. Dig. 292; 14 Va.-W. Va. Enc. Dig. 522; 15 Va.-W. Va. Enc. Dig. 472.]

5. Contracts (§ 138*)—Legality—Recovery.—When the evidence shows mutuality of interest on the part of the seller and buyer with respect to the illegal use to be made of the property, there can be no recovery.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 681-700; Dec. Dig. § 138.* 7 Va.-W. Va. Enc. Dig. 292; 14 Va.-W. Va. Enc. Dig. 522; 15 Va.-W. Va. Enc. Dig. 472.]

6. Appeal and Error (§ 882*)—Party Entitled to Allege Error—Party Inviting Error.—A party who invites error in an instruction is estopped to question it and will not be heard to complain of having misled the court, and it is immaterial that such party ask for other instructions, stating a different rule, which were refused and the ruling excepted to.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 3591-3610; Dec. Dig. § 882.* 1 Va.-W. Va. Enc. Dig. 608; 14 Va.-W. Va. Enc. Dig. 99; 15 Va.-W. Va. Enc. Dig. 72.]

7. Action (§ 35*)—Statutory Remedies—"Cumulative Remedy."—Code 1904, § 2462, subd. 2, providing that all reservations of title to goods sold, whether recorded or not, may be enforced upon the procedure prescribed, and that the court shall render such judgment as may be required, does not indicate a legislative purpose to abolish

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

pre-existing remedies in that class of cases, so as to make the remedy thereunder exclusive, and hence the remedy thereunder is cumulative and the seller may elect (citing Words and Phrases, vol. 2, p. 1785).

[Ed. Note.—For other cases, see Action, Cent. Dig. §§ 273-294; Dec. Dig. § 35.* 1 Va.-W. Va. Enc. Dig. 126.]

Appeal from Law and Chancery Court of City of Norfolk.

Action by Phillip Levy & Company against Gertrude Davis. Judgment for defendant, and plaintiff appeals. Affirmed.

N. T. Green and *Moe Levy*, both of Norfolk, for plaintiff in error.

O. L. Shackleford and *W. L. Williams*, both of Norfolk, for defendant in error.

BUCHANAN CO. *v.* SMYTH'S HEIRS et al.

Jan. 15, 1914.

[80 S. E. 794.]

1. Quieting Title (§ 30*)—Adverse Possession—Necessary Parties.—In a suit to quiet title parties in possession as adverse claimants under junior grants from the commonwealth, court rights, and adverse possession under color of title and claim of right based on forfeiture for unpaid taxes are necessary parties.

[Ed. Note.—For other cases, see Quieting Title, Cent. Dig. §§ 64-66; Dec. Dig. § 30.* 11 Va.-W. Va. Enc. Dig. 526; 14 Va.-W. Va. Enc. Dig. 855; 15 Va.-W. Va. Enc. Dig. 839.]

2. Quieting Title (§ 12*)—Jurisdiction—Adequate Remedy at Law.—Prior to the act approved February 20, 1912, amending and re-enacting section 3085 of Code 1904 (Acts 1912, c. 44), a court of equity would have no jurisdiction of a suit to quiet title, where the party suing to quiet title had the complete legal and equitable title, but was not in possession of the property, since his remedy at law, ejectment would be complete; and if he had only the equitable title, equity would aid him to acquire the legal title.

[Ed. Note.—For other cases, see Quieting Title, Cent. Dig. §§ 44, 45; Dec. Dig. 12.* 11 Va.-W. Va. Enc. Dig. 516; 14 Va.-W. Va. Enc. Dig. 855; 15 Va.-W. Va. Enc. Dig. 839.]

3. Records (§ 17*)—Supplying Lost Records—Parties—Adverse Claimants.—In a bill under Va. Code 1904, § 2361, to supply records or papers forming links to plaintiff's title to land, the statute expressly provides that parties in possession claiming adversely are necessary parties.

[Ed. Note.—For other cases, see Records, Cent. Dig. §§ 25, 26, 28-35, 43; Dec. Dig. § 17.* 11 Va.-W. Va. Enc. Dig. 700.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.